UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,257	07/30/2003	Timothy M. Anderson	POU920020121US1	9401

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EXAMINER
DAO, THUY CHAN

ART UNIT	PAPER NUMBER
2192	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

Office Action Summary	Application No.	Applicant(s)
	10/630,257	ANDERSON ET AL.
	Examiner	Art Unit
	Thuy Dao	2192

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>03</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>08 February 2007</u>.

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☐ Claim(s) _____ is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-20</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>30 July 2003</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All   b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1. This action is responsive to the amendment filed on February 8, 2007.

2. Claims 1-20 have been examined.

Response to Amendments

3. Per Applicants' request, claims 1, 3, 5, 7-8, 10, 12, 14-15, 17-18, and 20 have been amended.

4. The objection to drawings is withdrawn in view of Applicants' amendments.

5. The objection to the specification is withdrawn in view of Applicants' amendments.

6. The objection to the claims 1, 3, 5, 7-8, 10, 12, 14-15, 17-18, and 20 is withdrawn in view of Applicants' amendments.

Response to Arguments

7. The Applicants are thanked for a thorough reply. Applicant's arguments, filed February 8, 2007, with respect to the rejection of claims 1-20 under 35 USC 102 rejection (Cohen, US Patent No. 6,938,250) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground of rejection is made in view of Phillips (art of record, US Patent Publication No. 2002/0091805 A1);

Applicants' amendment necessitated the new ground of rejection presented in this Office action.

Claim Objections

8. Claims 5, 12, and 18 are objected to because of minor informalities. The newly added phrase (line 12, 14, and 18, respectively) is considered to read as - -...for evaluation by said build computer <u>system</u>- - as previously recited in line 7, 9, and 4, respectively.

Appropriate correction is required.

Claim Rejections – 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Phillips (art of record, US Patent Publication No. 2002/0091805 A1).

Claim 1:

Phillips discloses a computer program product, a system, and *a method for creating a replica (clone) computer system program image* (e.g., FIG. 1-2 and related text), *the method comprising the steps of:*

a build computer system (e.g., FIG. 2, Aggregation Node 212, [0048-0049], Managed Node Service MNS 314, [0051], [0062-0064]; FIG. 3, Image Transfer Engine ITE 316, [0059])

downloading a clone image to a target computer system (e.g., FIG. 3, Default OS 312, Target System Image 322, target computer system as a node under said Aggregation Node 212, [0059]);

the build computer system receiving from the target computer system, target computer system configuration information (e.g., FIG. 5, blocks 365-366, detect hardware profile of computer node, page 8, [0075]);

the build computer system determining, according to the received target computer system configuration information according to predetermined rules (e.g., FIG. 5, blocks 367-368, [0075]: 21-32; [0070], [0084], [0087], [0091]),

a set of program components needed by the target computer system to complete a build of the target computer system (e.g., FIG. 5, block 368, page 8, [0075]; FIG. 6, blocks 382-386, [0088-0089];); and

the build computer system transmitting one or more components of the determined set of program components to the target computer system (e.g., FIG. 6, blocks 386-390, page 10, [0087]; [0075]: 32-36).

Claim 2:

The rejection of base claim 1 is incorporated. Phillips also discloses *the target computer system configuration information comprises any one of an attached device information, a model information of the target computer system, a type information of the target computer system, an amount of memory information of the target computer system or a processor information of the target computer system* (e.g., [0066-0067], [0070], [0075).

Claim 3:

The rejection of base claim 1 is incorporated. Phillips also discloses *the one or more program components comprise any one of a program for determining a computer system configuration information, device drivers, application programs or custom build programs* (e.g., [0014], [0075]).

Claim 4:

The rejection of base claim 1 is incorporated. Phillips also discloses *the determining step further comprises the step of interrogating rules for configuration information* (e.g., [0070], [0086]).

Claim 5:

Phillips discloses a computer program product, a system, and *a method for programmatically building a replica (clone) computer system program image* (e.g., FIG. 1-2 and related text), *the method comprising the steps of:*

loading a clone image into a target computer system (e.g., FIG. 3, Default OS 312, Target System Image 322, target computer system as a node under Aggregation Node 212, [0048-0049], [0059]);

executing a clone install program at the target computer system, the target computer system in network communication with a build computer system (e.g., FIGs. 3-4, Managed Node Service (MNS) 314 [0051], [0062-0064], Image Transfer Engine ITE 316, page 6, [0059], page 9, [0077-79]);

detecting by the clone install program, configuration information of the computer system (e.g., FIG. 5, blocks 365-366, detect hardware profile of computer node, page 8, [0075]);

transmitting by way of the install program, the configuration information to the build computer system (e.g., FIG. 6, blocks 386-390, page 10, [0087])

for evaluation by said build computer system (e.g., [0070], [0075], [0084]);

according to a configuration rule to determine a set of program components needed by the target computer system (e.g., FIG. 5, blocks 367-368, page 8, [0075], [0084], [0087], and [0091]);

receiving the set of program components from the build computer system; and storing the set of program components at the target computer system (e.g., FIG. 3, hard disk 142 of Target Computer System, [0075], [0087]; hard disk storing program components 312, 322, 332, page 6, [0059-60]).

Claim 6:

The rejection of base claim 5 is incorporated. Phillips also discloses *the executing step comprises the further steps of receiving an update to the install program from the build computer system* (e.g., [0014], [0049]).

Claim 7:

The rejection of base claim 5 is incorporated. Phillips also discloses *the set of program components comprise any one of programs to be run on the target computer system to augment the install process, device drivers or application programs* (e.g., [0014], [0070], [0075], [0086]).

Claims 8-11:

Claims 8-11 are computer program product versions, which recite the same limitations as those of claims 1-4, wherein all claimed limitations have been addressed and/or set forth above. Therefore, as the reference teaches all of the limitations of the above claims, it also teaches all of the limitations of claims 8-11.

Claims 12-14:

Claims 12-14 are computer program product versions, which recite the same limitations as those of claims 5-7, wherein all claimed limitations have been addressed and/or set forth above. Therefore, as the reference teaches all of the limitations of the above claims, it also teaches all of the limitations of claims 12-14.

Claims 15-17:

Claims 8-11 are system versions, which recite the same limitations as those of claims 1-3, wherein all claimed limitations have been addressed and/or set forth above. Therefore, as the reference teaches all of the limitations of the above claims, it also teaches all of the limitations of claims 15-17.

Claims 18-20:

Claims 18-20 are system versions, which recite the same limitations as those of claims 5-7, wherein all claimed limitations have been addressed and/or set forth

above. Therefore, as the reference teaches all of the limitations of the above claims, it also teaches all of the limitations of claims 18-20.

Conclusion

11. Applicants' amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication should be directed to examiner Thuy Dao (Twee), whose telephone is (571) 272 8570. The examiner can normally be reached on Monday, Tuesday, Thursday, and Friday from 6:00AM to 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam, can be reached at (571) 272 3695.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273 8300.

Any inquiry of a general nature of relating to the status of this application or proceeding should be directed to the TC 2100 Group receptionist whose telephone number is (571) 272 2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

T. Dao

TUAN DAM
SUPERVISORY PATENT EXAMINER